

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of     )  
ARTHUR, JR. AND DAISY M. BEDFORD    )

For Appellants: Louis Pugliani  
LP Enterprises

For Respondent: Mark McEvilly  
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code From the action of the Franchise Tax Board on the protest of Arthur Jr. and Daisy M. Bedford against proposed assessment; of additional personal income tax in the amounts of \$336.45 and \$608.47 for the years 1974 and 1975, respectively.

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The question presented by this appeal is whether certain itemized personal and business expense deductions claimed by appellants on their California personal income tax returns for the years 1974 and 1975, were properly disallowed by respondent due to lack of substantiation.

During the years in issue, Mr. Bedford was employed by the Pasadena School District. Additionally, he and his wife, Daisy M. Bedford, maintained a real estate business. During the 1975 taxable year, appellants also maintained a Shaklee sales distributorship for soap and health care products. On their joint California personal income tax return for 1974, appellants claimed itemized personal deductions totaling \$9,367 and a net business loss in the amount of \$8,537; their 1975 return reflected claimed itemized personal deductions totaling \$10,763 and net business losses of \$14,670.

Respondent examined appellants' 1974 and 1975 returns together with records supplied by their tax representative. During the course of that examination, appellants' representative claimed that many of his clients' records were lost during a burglary of his office; however, he was able to provide replacement substantiation for some of appellants' claimed expenses. Those deductions for which no substantiation was provided were disallowed by respondent. Thus, for example, appellants' medical expense deduction for 1974 in the amount of \$2,377 was disallowed due to the absence of any supporting documentation.

Income tax deductions are a matter of legislative grace, and the burden is on the taxpayer to show by competent evidence that he is entitled to any deductions claimed. (Deputy v. du Pont, 308 U.S. 488 [84 L.Ed. 416] (1940); New Colonial Ice Co. v. Helvering, 292 U.S. 435 [78 L.Ed. 1348] (1934).) The fact that it may be difficult, if not impossible, for the taxpayer to substantiate any claimed deduction does not relieve him of his burden. (Burnet v. Houston, 283 U.S. 223 [75 L.Ed. 991] (1931); Charles E. Oates, ¶ 62,077 P-H Memo. T.C. (1962); Appeal of Wing Edwin and Faye Lew, Cal. St. Bd. of Equal., Sept. 17, 1973.)

In the instant appeal, appellants readily acknowledge that they lack the evidence needed to substantiate the deductions disallowed by respondent. They argue, however, that their claimed deductions should be

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allowed in full because their records were lost through no fault of their own. In view of the authority cited above, we can only conclude that appellants' contention is without merit, and that respondent properly disallowed those deductions for which appellants lack substantiation. Accordingly, respondent's action in this matter will be sustained.

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## ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Arthur, Jr. and Daisy M. Bedford against proposed assessments of additional personal income tax in the amounts of-\$336.45 and \$608.47 for the years 1974 and 1975, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 29<sup>th</sup> day of June, 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Dronenburg and Mr. Nevins present.

William M. Bennett, Chairman

Ernest J. Dronenburg, Jr. , Member

Richard Mevins, Member

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